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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

MICHAEL G. SCHWERN,

Plaintiff,

v.

PATRICK PLUNKETT,
Personal Representative of
the Estate of Nóirín Plunkett,

Defendant.

Case No. 3:14-CV-00146-PK

**DECLARATION OF BEAR
WILNER-NUGENT IN SUPPORT OF
PLAINTIFF'S UNOPPOSED MOTION
FOR EXTENSION OF TIME
TO FILE OPPOSITION TO
PATRICK PLUNKETT'S MOTION
FOR ATTORNEY FEES AND COSTS**

I, BEAR WILNER-NUGENT, make the following declaration under the penalty of perjury and based on my own personal knowledge. I am competent to testify to the following:

1. I am the attorney for plaintiff Michael G. Schwern. I make this declaration in support of plaintiff's unopposed motion for extension of time to file opposition to Patrick Plunkett's motion for attorney fees and costs.
2. Mr. Plunkett filed his motion and supporting documents on February 17, 2017. Plaintiff's opposition is thus due on March 3, pursuant to LR 54-3(b).

DECLARATION OF BEAR WILNER-NUGENT IN SUPPORT OF PLAINTIFF'S
UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE OPPOSITION TO PATRICK
PLUNKETT'S MOTION FOR ATTORNEY FEES AND COSTS – Page 1

3. I am seeking an additional 28 days to file plaintiff's opposition and supporting documents, which would make the new deadline March 31.
4. This is plaintiff's first motion for an extension of time to respond.
5. I am making this motion because I need more time to prepare plaintiff's opposition to Mr. Plunkett's motion, which prays for an attorney fee award of \$50,415 and costs of \$3,152.58. Neither the time provided by local rule nor a shorter extension would be adequate for the reasons set forth below.
6. I am currently immersed in researching and writing the opening brief in *State v. Micus Duane Ward* (Oregon Court of Appeals No. A163157), which is due on March 6. This is a direct appeal in an aggravated murder case. Mr. Ward, who is intellectually disabled, is serving a sentence of life in prison without the possibility of release or parole. He raises a serious challenge to his competency to stand trial, along with several other assignments of error. This brief is exceptionally demanding and requires a large proportion of my professional time and energy. I am unable to adequately prepare plaintiff's opposition to Mr. Plunkett's motion while I am finishing this brief.
7. From March 9 through March 24, I will be helping chaperone my older daughter's class trip to Mexico. This is not simply a vacation but rather a fully integrated part of the curriculum at my daughter's language immersion school. My role as a chaperone in this trip has been planned with the educational team for many months and numerous financial arrangements depend on it. After I return from this trip, I will immediately be able to resume work on the opposition to Mr. Plunkett's motion.
8. I have today spoken by telephone with Mr. Plunkett's counsel, who does not object to this motion.
9. I am not making this motion for the purpose of delay.

I hereby declare that the above statements are true to the best of my knowledge and belief and that I understand that they are made for use as evidence in court and are subject to penalty for perjury.

RESPECTFULLY SUBMITTED March 1, 2017.

/s/ Bear Wilner-Nugent
Bear Wilner-Nugent, OSB #044549
Attorney for Plaintiff